IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

ITA.No. 56 of 2007

(ITA.62/C0CH/1998 of I.T.A.TRIBUNAL,COCHIN BENCH)

APPELLANT/APPELLANT

THE COMMISSIONER OF INCOME TAX,
THIRUVANANTHAPURAM.

BY ADV. SRI.GEORGE K. GEORGE, SC FOR IT

RESPONDENT/ RESPONDENT

KERALA STATE INDUSTRIAL DEVELOPMENT
CORPORATION LIMITED, THIRUVANANTHAPURAM.

BY

THIS INCOME TAX APPEAL HAVING COME UP FOR ADMISSION ON 19/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

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INCOME TAX APPEAL No. 56 OF 2007

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Dated this the 19th July , 2007

J U D G M E N T

H.L. Dattu, C.J.:

The revenue being aggrieved by the orders passed by the Income Tax Appellate Tribunal, Cochin Bench, Cochin in I.T.A.No. 62/Coch/98 dated 31.12.2002, has filed the present appeal before us , under section 260A of the Income Tax Act. The revenue has raised the following substantial questions of law for our consideration and decision. They are as under:

> *"1) Whether, on the facts and in the circumstances of the case and also in the absence of a finding that the method adopted by the assessing officer invoking section 145 of the Act is not reasonable, the Tribunal is justified in interfering with the method of treatment given to interest receipts as well as interest payments by the Assessing Officer?*
>
> *2) Whether on the facts and in the circumstances of the case, the method of treatment given to interest receipts and payments by the assessee, the direction given by the CIT(A) and the confirmation of the same by the Tribunal are in accordance with law and accountancy practice?"*

2. The assessing officer had found that the assessee had followed the cash system of accounting for interest receipts and mercantile system of accounting for interest payments. According to the assessing officer, the same is impermissible in view of the decision of the Madras High Court in **G.**

Padmanabha Chettiar and sons vs. CIT (182 ITR P.1). Aggrieved by the orders passed by the assessing officer, the assessee had carried the matter before the first appellate authority. The first appellate authority, based on the notification issued by the Government of India had concluded that the assessee was following the cash system for interest income and mercantile system for interest payments including interest expenditure. Accordingly, the first appellate authority had partly allowed the assessee's appeal. Aggrieved by the aforesaid order of the first appellate authority, the revenue had carried the matter in an appeal before the Income Tax Appellate Tribunal, Cochin Bench.

3. The Income Tax Appellate Tribunal, following its earlier decision in **ITA No. 754/Coch/92** and also following the decision of this court in **Commissioner of Income Tax, Trivandrum vs. The Kerala State Industrial Development Corporation Limited, Trivandrum (ITR Nos. 146 to 148 of 1998)** dated 13th September, 2002, had rejected the appeal filed by the revenue. Aggrieved by the aforesaid order passed by the Income Tax Appellate Tribunal, the revenue is before us in this appeal.

4. The questions of law raised by the revenue, in our opinion, are now fully concluded by the decision of this court in **Commissioner of Income Tax vs. The Kerala State Industrial Development Corporation , Trivandrum.** Respectfully following the observations made in the aforesaid decision, the questions of law framed by the revenue require to be answered against them. Accordingly, the appeal filed by the revenue requires to be

rejected and it is rejected.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

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